

1 DAVID J. MERRILL  
Nevada Bar No. 6060  
2 MORGAN F. SHAH  
Nevada Bar No. 12490  
3 DAVID J. MERRILL, P.C.  
10161 Park Run Drive, Suite 150  
4 Las Vegas, Nevada 89145  
Telephone: (702) 566-1935  
5 Facsimile: (702) 993-8841  
E-mail: david@djmerrillpc.com  
6 E-mail: morgan@djmerrillpc.com  
Attorneys for WELLS FARGO BANK, N.A.  
7  
8  
9

10 UNITED STATES DISTRICT COURT  
11 DISTRICT OF NEVADA

12 DIMITRITZA TOROMANOVA, an  
Individual,

13 Plaintiff,

14 vs.

15 WELLS FARGO BANK, N.A.; WACHOVIA  
16 MORTGAGE, FSB; NATIONAL DEFAULT  
17 SERVICING CORP; and TIFFANY K.  
LABO,

18 Defendants.

Case No.: 2:12-cv-01637-LRH-(CWH)

19 **REPLY IN SUPPORT OF MOTION TO AMEND ORDER**

20 On January 7, 2013, this Court entered an order denying plaintiff Dimitritza  
21 Toromanova's ("Toromanova") Motion to Remand (Doc. #34) and an order granting the  
22 defendants' motions to dismiss, granting the motion to expunge lis pendens, and granting the  
23 motion to declare plaintiff a vexatious litigant (Doc. #35) (the "Order"). Upon reviewing the  
24 Order, Wells Fargo Bank, N.A. ("Wells Fargo") observed that the Court inadvertently omitted  
25 substantive findings about the frivolous or harassing nature of the plaintiff's litigation that could  
26 subject the order to challenge. Accordingly, Wells Fargo filed the instant Motion to Amend  
27 Order (Doc. #39) (the "Motion") on January 17, 2013 to bring the omission to the Court's  
28 attention and modify the Order pursuant to Fed. R. Civ. P. 60(a).

1 On February 4, 2013, Toromanova filed an Opposition to the Motion (Doc. #42) in which  
2 she continues to argue that this Court lacks jurisdiction and attempts to challenge the Order itself  
3 on the merits. However, Toromanova fails to provide any reason why the Court should not  
4 amend the Order to "correct a clerical mistake or a mistake arising from oversight or omission."  
5 See Fed. R. Civ. P. 60(a). Therefore, Wells Fargo respectfully requests that the Court amend the  
6 Order to include substantive findings about the frivolous or harassing nature of the plaintiff's  
7 litigation in accordance with the requirements set forth in *De Long v. Hennessey*, 912 F.3d 1144,  
8 1147-48 (9th Cir. 1999). At the time it filed the Motion, Wells Fargo submitted a proposed  
9 Order Granting Motion to Amend Order (Doc. #40) that addresses its concerns.

10 DATED this 12th day of February 2013.

11 DAVID J. MERRILL, P.C.

12  
13 By:




14 DAVID J. MERRILL  
15 MORGAN F. SHAH  
16 10161 Park Run Drive, Suite 150  
17 Las Vegas, Nevada 89145  
18 (702) 566-1935

19 Attorneys for WELLS FARGO BANK, N.A.  
20  
21  
22  
23  
24  
25  
26  
27  
28

**CERTIFICATE OF SERVICE**

Pursuant to Fed. R. Civ. P. 5(b), I hereby certify that on the 12th day of February 2013, service of the foregoing Reply in Support of Motion to Amend Order was made to all counsel in the action through the Court's CM/ECF system. In addition, service was made by placing a copy in the United States Mail, postage prepaid and addressed to the following at their last known addresses:

Dimitritza Toromanova  
Post Office Box 19153  
Las Vegas, Nevada 89132

  
An employee of David J. Merrill, P.C.